

Senate Study Bill 1313

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CO=CHAIRPERSON ZIEMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to written advice issued by the department of
2 revenue to a particular retailer regarding the collection of
3 state or local sales tax.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 3599SC 81
6 mg/pj/5

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1 1 Section 1. Section 421.60, subsection 2, paragraph m,
1 2 subparagraph (1), Code 2005, is amended by striking the
1 3 subparagraph and inserting in lieu thereof the following:
1 4 (1) The department shall not maintain a position against a
1 5 retailer, in the event that the retailer failed to collect the
1 6 state sales or use tax or local sales and services tax from a
1 7 purchaser as a result of erroneous written advice issued by an
1 8 employee of the department specially directed to the retailer
1 9 by the department that is inconsistent with the erroneous
1 10 written advice, except on the basis of subsequent written
1 11 advice sent by the department to that retailer, or a change in
1 12 state or federal law, a reported court case to the contrary, a
1 13 contrary rule adopted by the department, a change in material
1 14 facts or circumstances relating to the retailer, or the
1 15 retailer's misrepresentation or incomplete or inadequate
1 16 representation of material facts and circumstances in
1 17 requesting the written advice. Any tax, interest, or penalty
1 18 that is assessed by the department which is contrary to the
1 19 erroneous written advice issued by the department shall be
1 20 abated upon the retailer presenting a copy of the retailer's
1 21 request for written advice to the department and a copy of the
1 22 department's reply. For purposes of this subparagraph,
1 23 "written advice" includes a notice of assessment issued by the
1 24 department to the retailer and all related documents,
1 25 including the department's report setting forth the basis for
1 26 the assessment.

EXPLANATION

1 27 This bill provides that if the department of revenue issues
1 28 a written advice statement to a specific retailer, the
1 29 department cannot subsequently maintain an opposite position
1 30 with respect to that retailer unless the law has changed
1 31 because of new state or federal legislation, new rules, new
1 32 written advice, or a court case holding the opposite, or if
1 33 the retailer made a misrepresentation or provided inadequate
1 34 or incomplete information. Current law contains similar
2 1 language.
2 2 In addition, the bill provides that the department shall
2 3 abate any tax, interest, or penalty that was not collected
2 4 because of such written advice. Current law leaves the
2 5 question of abatement to the discretion of the department.
2 6 LSB 3599SC 81
2 7 mg:nh/pj/5